

EXHIBIT A

1345723

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

July 20, 2005

**THE ATTACHED U.S. TRADEMARK REGISTRATION 1,140,958 IS
CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND
EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN
THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE.**

REGISTERED FOR A TERM OF 20 YEARS FROM *October 28, 1980*

1st RENEWAL FOR A TERM OF 10 YEARS FROM *October 28, 2000*

SECTION 8 PARTIAL & 15

AMENDMENT/CORRECTION/NEW CERT(SEC7) ISSUED

LESS GOODS

CLASS(ES) CANCELLED:

INT CL 35

SAID RECORDS SHOW TITLE TO BE IN:

VAN SCOY, WAYNE

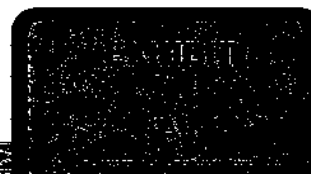
AN INDIVIDUAL OF THE UNITED STATES

By Authority of the

**Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office**



N. Williams
N. WILLIAMS
Certifying Officer



Int. Cl.: 42

Prior U.S. Cl.: 101

Reg. No. 1,140,958

United States Patent and Trademark Office

Registered Oct. 28, 1980

15 Year Renewal/New Cert.

Renewal Term Begins Oct. 28, 2000

**SERVICE MARK
PRINCIPAL REGISTER
REGISTRATION ASSIGNED**

VAN SCOY DIAMOND MINE

VAN SCOY, WAYNE (UNITED STATES
CITIZEN)
154 MUNDY STREET
WILKES-BARRE, PA 18702, BY ASSIGN-
MENT VAN SCOY DIAMOND MINES,
INC. (PENNSYLVANIA CORPORA-
TION) EDWARDSVILLE, PA

APPLICANT MAKES NO CLAIM TO
THE EXCLUSIVE USE OF THE WORD
"DIAMOND" APART FROM THE MARK
AS SHOWN IN THE DRAWINGS, BUT
RESERVES ANY COMMONLAW RIGHTS
IT MAY HAVE THEREIN.

FOR: [RENDERING OF TECHNICAL
AID AND ASSISTANCE IN THE ESTAB-
LISHMENT AND/OR OPERATION OF
RETAIL JEWELRY STORES] IN CLASS
35 (U.S. CLS. 100, 101 AND 102).
FIRST USE 5-26-1977; IN COMMERCE
5-26-1977.

FOR: RETAIL JEWELRY STORE SER-
VICES, IN CLASS 42 (U.S. CL. 101).
FIRST USE 11-8-1976; IN COMMERCE
3-11-1977.
SER. NO. 73-169,527, FILED 5-8-1978.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Oct. 2, 2001.*

DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE

Int. Cls.: 35 and 42

Prior U.S. Cl.: 101

United States Patent and Trademark Office

Reg. No. 1,140,958

Registered Oct. 28, 1980

SERVICE MARK

Principal Register

VAN SCOY DIAMOND MINE

Van Scoy Diamond Mines, Inc. (Pennsylvania corporation)

Gateway Shopping Center
Edwardsville, Pa. 18704

~~For: RENDERING OF TECHNICAL AID
AND ASSISTANCE IN THE ESTABLISHMENT
AND/OR OPERATION OF RETAIL JEWELRY
STORES, in CLASS 35 (U.S. Cl. 101).~~

First use May 26, 1977; in commerce May 26, 1977.

For: RETAIL JEWELRY STORE SERVICES,
in CLASS 42 (U.S. Cl. 101).

First use Nov. 1976; in commerce Mar. 11, 1977.

Applicant makes no claim to the exclusive use of the word "Diamond" apart from the mark as shown in the drawings, but reserves any commonlaw rights it may have therein.

Ser. No. 169,527, filed May 8, 1978.

ROBERT PEVERADA, Primary Examiner

EXHIBIT B

1345723

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

July 20, 2005

**THE ATTACHED U.S. TRADEMARK REGISTRATION 1,140,711 IS
CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND
EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN
THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE.**

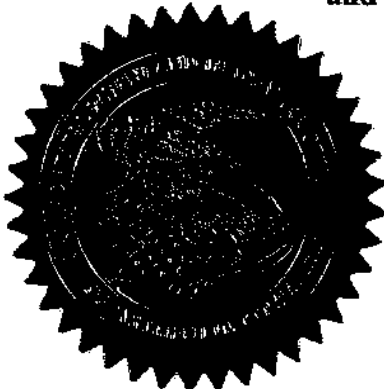
**REGISTERED FOR A TERM OF 20 YEARS FROM *October 21, 1980*
1st RENEWAL FOR A TERM OF 10 YEARS FROM *October 21, 2000*
SECTION 8 & 15**

**AMENDMENT/CORRECTION/NEW CERT(SECT) ISSUED
SAID RECORDS SHOW TITLE TO BE IN:**

VAN SCOY, WAYNE

AN INDIVIDUAL OF THE UNITED STATES

**By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office**




N. WILLIAMS
Certifying Officer

Int. Cl.: 14

Prior U.S. Cl.: 28

Reg. No. 1,140,711

United States Patent and Trademark Office

Registered Oct. 21, 1988

10 Year Renewal/New Cert.

Renewal Term Begins Oct. 21, 2008

**TRADEMARK
PRINCIPAL REGISTER
REGISTRATION ASSIGNED**

VAN SCOY DIAMOND MINE

VAN SCOY, WAYNE (UNITED STATES
CITIZEN)
154 MUNDY STREET
WILKES-BARRE, PA 18702, BY ASSIGN-
MENT VAN SCOY DIAMOND MINES,
INC. (PENNSYLVANIA CORPORA-
TION) EDWARDSVILLE, PA
APPLICANT MAKES NO CLAIM TO
THE EXCLUSIVE USE OF THE WORD
"DIAMOND" APART FROM THE MARK
AS SHOWN, BUT RESERVES ANY COM-
MON LAW RIGHTS IT MAY HAVE
THEREIN.

FOR: JEWELRY AND PRECIOUS
STONES, IN CLASS 14 (U.S. CL. 28).

FIRST USE 3-11-1977; IN COMMERCE
3-11-1977.

SER. NO. 73-168,526, FILED 5-8-1978.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Oct. 2, 2001.*

DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE

Int. Cl.: 14

Prior U.S. Cl.: 28

United States Patent and Trademark Office

Reg. No. 1,140,711
Registered Oct. 21, 1980

TRADEMARK
Principal Register

VAN SCOY DIAMOND MINE

Van Scoy Diamond Mines, Inc. (Pennsylvania
corporation)
Gateway Shopping Center
Edwardsville, Pa. 18704

For: JEWELRY AND PRECIOUS STONES, in
CLASS 14 (U.S. Cl. 28).

First use Mar. 11, 1977; in commerce Mar. 11,
1977.

Applicant makes no claim to the exclusive use of
the word "Diamond" apart from the mark as shown,
but reserves any common law rights it may have
therein.

Ser. No. 169,526, filed May 8, 1978.

ROBERT PEVERADA, Primary Examiner

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
THE DISTRICT OF DELAWARE

WAYNE VAN SCOY		:	
	PLAINTIFF	:	C.A.NO. 05-108 (KAJ)
		:	
V.		:	
		:	
VAN SCOY DIAMOND MINE OF		:	
DELAWARE, INC., :		:	
KURT VAN SCOY AND		:	
DONNA VAN SCOY		:	
	DEFENDANTS	:	
		:	

DECLARATION OF WAYNE VAN SCOY

I, Wayne Van Scoy, declare and say as follows:

1. I am the Plaintiff in this action.
2. I am the owner of Federal Service Mark Registration No. 1,140,958 (Exhibit A) and Federal Trademark Registration No. 1,140,711 (Exhibit B), both registrations being for the mark "VAN SCOY DIAMOND MINE" (the "Marks at Issue").
3. Both Registrations for the Marks at Issue are in full force and effect and have been made incontestable under Section 15 of the Lanham Trademark Act. See Exhibits A and B.
4. I acquired the Marks at Issue along with Registrations 1,140,958 and 1,140,711 and associated good will pursuant to a settlement approved by the United States Bankruptcy Court for the Middle District of Pennsylvania by its order of January 4, 2001. (See Exhibit S). I have renewed both registrations in my name.



5. I have operated a jewelry store in Wilkes-Barre, PA continuously since 1995. In connection with this jewelry store, I have used the mark VAN SCOY DIAMOND MINE except for the period of September, 1999 until January of 2001 while I was enjoined from using the same by the United States Bankruptcy Court for the Middle District of Pennsylvania. I have continuously used the mark VAN SCOY DIAMOND MINE since January of 2001 in connection with the retail jewelry store which is operated by a corporation which I own, Rings of Romance, Inc. d/b/a Van Scoy Diamond Mine, as a licensee under the marks VAN SCOY DIAMOND MINE and their registrations. Gross sales of jewelry under the mark VAN SCOY DIAMOND MINE and my advertising expenses for the mark VAN SCOY DIAMOND MINE are shown on redacted tax returns of Rings of Romance, Inc. for the years 2001 through 2004, which comprise Exhibit M.

6. I sell diamonds and other jewelry to consumers through my retail store Van Scoy Diamond Mine in Wilkes-Barre, PA. In connection with this, I rely heavily on radio advertising as did my predecessor father since 1977.

7. I have visited Defendants' store in 1996, 1998 and 2003. I have also viewed information about Defendants' store on their website, which includes pictures of the store. Defendants' store has operated under trade name Van Scoy Diamond Mine of Delaware, Inc. using the mark VAN SCOY DIAMOND MINE and is very similar in operation to my VAN SCOY DIAMOND MINE store.

8. I have had a consumer, who purchased a product from Defendants, come to my store for services, namely, sizing of a ring purchased from Defendants.

9. Recently, I made a payment to one of my suppliers, Independent Source, in an amount of approximately \$44,000.00. On October 7, 2005, I learned that the supplier, as a result of confusion, had misapplied my payment to Defendants' account.

10. I have attended the depositions of Kurt and Donna Van Scoy. It is my understanding from their testimony that a substantial portion of their advertising is radio advertising.

11. I, through my licensee, and Defendants, sell diamonds and jewelry to customers through retail jewelry stores.

12. I have reviewed the website of Defendants both when it was at the domain name www.vanscoydiamondmine.com and as it currently exists at the domain name www.vanscoydiamondsofdelaware.com, and particularly have reviewed their Showcase Gallery, and many of the products sold by Defendant as shown on their website are also sold by me through my licensee in my VAN SCOY DIAMOND MINE store.

13. The warranty certificate identified as Exhibit K is a warranty certificate utilized by my licensee in the operation of the VAN SCOY DIAMOND MINE store in Wilkes-Barre, PA.

14. Exhibit L is Defendants warranty certificate which was identified in depositions by Defendants as the warranty certificate used by them. Defendants' warranty certificate is substantially identical to my warranty certificate.

15. I have personal knowledge of the facts set forth in this Declaration unless specifically indicated otherwise.

EXHIBIT D



In the Matter Of:

Van Scoy

v.

Van Scoy Diamond Mine of Delaware, Inc.

C.A. # 05-108 (KAJ)

Transcript of:

Kurt Van Scoy

July 26, 2005

Wilcox & Fetzer, Ltd.
Phone: 302-655-0477
Fax: 302-655-0497
Email: lhertzog@wilfet.com
Internet: www.wilfet.com

Van Scoy

Kurt Van Scoy

v. Van Scoy Diamond Mine of Delaware, Inc.

C.A. # 05-108 (KAJ)

July 26, 2005

Page 1

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

WAYNE VAN SCOY,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	05-108 (KAJ)
VAN SCOY DIAMOND MINE OF)	
DELAWARE, INC., KURT VAN SCOY)	
and DONNA VAN SCOY,)	
)	
Defendants.)	

Video deposition of KURT VAN SCOY taken pursuant to notice at the offices of Ashby & Geddes, 17th Floor, 222 Delaware Avenue, Wilmington, Delaware, beginning at 10:00 a.m. on Tuesday, July 26, 2005, before Anne L. Adams, Registered Professional Reporter and Notary Public.

APPEARANCES:

MICHAEL F. PETOCK, ESQ.
MICHAEL C. PETOCK, ESQ.
PETOCK & PETOCK
46 The Commons at Valley Forge
1220 Valley Forge Road
Valley Forge, Pennsylvania 19482-0856
for the Plaintiff,

CHARLES N. QUINN, ESQ.
FOX ROTHSCHILD
2000 Market Street, 10th Floor
Philadelphia, Pennsylvania 19103-3291
for the Defendants.

ALSO PRESENT: Wayne Van Scoy
Donna Van Scoy
Lisa Bauer - Video Specialist

WILCOX & FETZER
1330 King Street - Wilmington, Delaware 19801
(302) 655-0477

Van Scoy

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Kurt Van Scoy

C.A. # 05-108 (KAJ)

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1 VIDEO SPECIALIST: This is the videotaped
2 deposition of Kurt Van Scoy taken by the plaintiff in the
3 matter of Wayne Van Scoy versus Van Scoy Diamond Mine of
4 Delaware, Incorporated, et al., held in the office of
5 Ashby & Geddes on July 26, 2005, at 10 a.m.

6 The court reporter is Anne Adams from the
7 firm of Wilcox & Fetzer. My name is Lisa Bauer, a video
8 specialist from Discovery Video Services, Incorporated,
9 in association with Wilcox & Fetzer.

10 Counsel will now introduce themselves.

11 MR. PETOCK: Michael C. Petock for
12 plaintiff, Wayne Van Scoy.

13 MR. F. PETOCK: Michael F. Petock for
14 plaintiff, Wayne Van Scoy.

15 MR. W. VAN SCOY: Wayne Van Scoy, plaintiff.

16 MR. QUINN: Charles N. Quinn for the
17 defendants.

18 VIDEO SPECIALIST: The court reporter will
19 now swear in the witness.

20 KURT VAN SCOY,
21 the witness herein, having first been
22 duly sworn on oath, was examined and
23 testified as follows:

24 EXAMINATION

Page 3

Page 5

1 BY MR. PETOCK:

2 Q. Good morning, Kurt.

3 A. Good morning.

4 Q. I'm going to ask you some questions today to see
5 what you know about the facts giving rise to this
6 lawsuit. If you don't understand a question, ask me to
7 repeat it. If you don't understand the substance of a
8 question, tell me so I can rephrase it. If you realize
9 that an earlier answer you gave was inaccurate or
10 incomplete, just let me know and you will be allowed to
11 go back and supplement your earlier answer.

12 During this deposition, you are not allowed
13 to consult with your attorney about the substance of the
14 deposition. In other words, you can't talk to your
15 attorney about the deposition testimony that you either
16 have given or you anticipate to give. Do you understand
17 that?

18 A. Yes.

19 Q. That includes during recesses also.

20 MR. QUINN: And what is your authority for
21 that proposition?

22 MR. PETOCK: We have a case. I can pull it
23 out if you would like.

24 MR. QUINN: I would like to see it.

1 MR. F. PETOCK: We can do that later.

2 MR. QUINN: We can go forward, but I would
3 like to see that case.

4 MR. PETOCK: Sure. No problem.

5 MR. F. PETOCK: There is definitely case law
6 here in this district that holds that.

7 MR. QUINN: I would like to see it.

8 BY MS. VAUGHAN:

9 Q. During the deposition, I will, from time to time,
10 I will refer to your father, Thomas Van Scoy, Senior.

11 A. Yes.

12 Q. Unless the context is clearly contrary, when I
13 refer to your father, I'm also referring to your father's
14 company, Van Scoy Diamond Mine, Inc.

15 A. Okay.

16 Q. Do you understand the instructions as I have
17 given them to you?

18 A. Yes.

19 Q. You have taken an oath this morning under the
20 penalty of perjury to tell the truth. Do you understand
21 that oath?

22 A. Yes, I do.

23 Q. Could you, please, you state your name and
24 address for the record?

1 A. Kurt Van Scoy, 820 Old Harmony Road, Newark,
2 Delaware.

3 Q. You're married to Donna Van Scoy; is that
4 correct?

5 A. Donna Marie Van Scoy, that's correct.

6 Q. When did you two get married?

7 A. July 31st, 1994.

8 Q. Are you an owner of Van Scoy Diamond Mine of
9 Delaware, Inc.?

10 A. I am the president.

11 Q. Who else has an ownership -- are you an owner?

12 A. I am owner, yes.

13 Q. Who else has an ownership interest?

14 A. Actually, my wife is secretary.

15 Q. And what percentage ownership do you have?

16 A. We are 50/50.

17 Q. You have a 50 percent ownership and Donna has a
18 50 percent ownership interest?

19 A. Yes.

20 Q. And you said you're president?

21 A. Correct.

22 Q. Do you make the decisions for the corporation?

23 A. I do.

24 Q. So you authorize and approve the advertising of

2 (Pages 2 to 5)

Van Scoy
Kurt Van Scoy

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Page 6

1 the corporation?
2 A. Yes, I do.
3 Q. Do you authorize and approve what trade name to
4 use?
5 A. I don't understand the question.
6 Q. Do you make the decisions as to what trade name
7 to use?
8 A. Yes.
9 MR. PETOCK: I would like to have this
10 marked as Exhibit 1, please.
11 (Van Scoy Deposition Exhibit No. 1, Meeting
12 Minutes of August 22, 1996, was marked for
13 identification.)
14 BY MR. PETOCK:
15 Q. Kurt, can you please tell me what you have in
16 front of you that has been marked Exhibit 1?
17 A. This is the minutes from a corporate meeting.
18 Q. Okay. I'm particularly interested in bullet point
19 Number 3, the trade name issues. What trade name issues
20 were discussed in this corporate meeting? It was a
21 special meeting of the board of directors; is that
22 correct?
23 A. That would be correct.
24 Q. That took place on August 22nd, 1996?

Page 7

1 A. Correct.
2 Q. Could you, please, tell me what the trade name
3 issues that were discussed were?
4 A. I don't remember.
5 Q. You have no recollection of what trade name
6 issues were discussed?
7 A. 1996, that's nine years ago. I don't remember.
8 Q. Would you -- what did you mean by trade name
9 issues?
10 A. I don't remember.
11 Q. Is there any reason that you would have been
12 talking about trade name issues in 1996?
13 A. None whatsoever. I don't remember.
14 Q. Is it common for you to have discussed trade name
15 issues at corporate meetings?
16 A. I don't recall.
17 Q. Did you talk about trade name issues at your last
18 corporate meeting?
19 A. To be -- I don't recall. I don't know.
20 Q. You don't remember -- do you remember your last
21 corporate meeting?
22 A. Briefly, but I don't recall any issues about
23 trade name issues.
24 Q. When was your last corporate meeting?

Page 8

1 A. Offhand, I don't know.
2 Q. Do you hold corporate meetings on a regular
3 basis?
4 A. We do once a year, twice a year sometimes, yes.
5 Q. Do you remember what trade name you were using at
6 the time in 1996, August 22nd?
7 MR. QUINN: Objection. Define trade name.
8 Q. Kurt, could you define trade name issues to what
9 it means to you today?
10 A. It's the name of my business.
11 Q. Which is what?
12 A. Van Scoy Diamond Mine of Delaware, Incorporated.
13 Q. Is it the name you use in your advertising?
14 A. Actually, no.
15 Q. How is it different?
16 A. It's Van Scoy Diamond Mine. That's what my
17 father gave me.
18 Q. What do you mean your father gave you the name
19 Van Scoy Diamond Mine? Could you explain that to me?
20 A. I sure will. In 1994, prior opening of our
21 business on November 12th, my father actually gave me the
22 sign, literally gave me the sign, Van Scoy Diamond Mine,
23 from our warehouse and actually brought that down to our
24 location here in Delaware.

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1 Q. What was the date that he gave you the sign that
2 said Van Scoy Diamond Mine?
3 A. The exact date I can't recall. I know it was
4 roughly, probably, about a month prior to the November
5 12th. So I would have to say sometime in October.
6 Q. November 12th was the opening of your store?
7 A. That is correct.
8 Q. Does that sign still exist?
9 A. Absolutely.
10 Q. Is it on your store now?
11 A. Yes, it is.
12 Q. Does it say Van Scoy or does it say Van Scoy
13 Diamond Mine?
14 A. It says Van Scoy Diamond Mine.
15 Q. Where is that located on your store?
16 A. On the front of the store.
17 Q. Did your dad actually tell you you had permission
18 to the use the mark or did you infer that from the fact
19 that he gave you the sign?
20 A. He gave me the right to use that name.
21 Q. What did he say to you exactly?
22 A. Here's the sign. Good luck to you. I love you
23 very much and I'm proud of you.
24 Q. Getting back to the minutes, your testimony is

3 (Pages 6 to 9)

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Kurt Van Scoy

C.A. # 05-108 (KAJ)

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1 that you have no recollection of what trade name issues
 2 were discussed?
 3 A. At that time, no.
 4 Q. At this time no or at that time no?
 5 A. At that time -- well, this time, no.
 6 MR. QUINN: Clarify that. Is the question
 7 does he have any recollection now or what happened then?
 8 MR. PETOCK: Obviously, yes.
 9 BY MR. PETOCK:
 10 Q. Do you have any recollection --
 11 MR. QUINN: It sounded like you were asking
 12 whether he had recollection now of what's going on now as
 13 opposed to recollections now of what went on then.
 14 BY MR. PETOCK:
 15 Q. Your testimony is that you have no
 16 recollection --
 17 MR. QUINN: Let me get my objection out.
 18 MR. F. PETOCK: You are leading the witness.
 19 You are coaching the witness.
 20 MR. QUINN: I'm making an objection.
 21 MR. F. PETOCK: Objection as to the form of
 22 the question. That's all you're allowed to do.
 23 MR. QUINN: We didn't have any stipulations
 24 on the record as far as the objections. If you want to

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1 put them on, that's fine.
 2 MR. F. PETOCK: That's all you're allowed to
 3 do, objection as to the form of the question.
 4 MR. QUINN: All objections are reserved,
 5 correct?
 6 MR. F. PETOCK: Except as to form of the
 7 question, right.
 8 MR. QUINN: Except as to the form of the
 9 question, is that stipulated?
 10 MR. PETOCK: Yes.
 11 MR. QUINN: Okay.
 12 BY MR. PETOCK:
 13 Q. Do you remember who was present at that meeting?
 14 A. I don't.
 15 Q. Who would have been present? Who is normally
 16 present at a corporate meeting?
 17 A. Myself --
 18 MR. QUINN: Objection. That's two
 19 questions.
 20 BY MR. PETOCK:
 21 Q. Who is normally present at a corporate meeting?
 22 A. Me.
 23 Q. Is there anyone that would remember what trade
 24 name issues were discussed?

Page 12

1 A. Nine years ago, no.
 2 Q. What other -- any other documents exist as to
 3 what went on at this meeting?
 4 A. No.
 5 Q. You said you were the only person present at the
 6 meeting?
 7 A. Well, me, my accountant, he was present. And
 8 usually at my meetings, that's usually who is there.
 9 Q. Donna isn't usually present?
 10 A. Sometimes.
 11 Q. Where did this meeting take place?
 12 A. I don't recall. Again, you are asking me
 13 something nine years. I don't recall.
 14 Q. Was it at 1218 South Main?
 15 A. Obviously, then that's where it would be.
 16 Q. What is that location? What location is 1218
 17 South Main in Wilkes-Barre?
 18 A. That would be -- I would ask the other attorney,
 19 if I'm not mistaken, the attorney I had from back home.
 20 Q. What was his name?
 21 A. Argood, Pat Argood.
 22 MR. PETOCK: I would like to have this
 23 marked as Exhibit 2.
 24 (Van Scoy Deposition Exhibit No. 2, Cease

Page 13

1 and Desist Letter, was marked for identification.)
 2 BY MR. PETOCK:
 3 Q. Can you tell me what you have in front of you
 4 that has been marked as Exhibit 2?
 5 A. A notification via filing a suit towards me for
 6 using the name Van Scoy.
 7 Q. I'm going to refer to this as a cease and desist
 8 letter. Is that okay? Is that understood?
 9 A. That's fine.
 10 Q. Did you receive this cease and desist letter?
 11 A. Yes.
 12 Q. Do you remember the approximate date that you
 13 received it?
 14 A. November the 18th, 2004.
 15 Q. After you received the cease and desist letter,
 16 did you continue to direct the acts of your corporation?
 17 A. I did because I believe this was in disbelief.
 18 Q. What do you mean you believe it was in disbelief?
 19 A. I wasn't aware of a trademark.
 20 Q. You weren't aware of -- what do you mean? Could
 21 you explain that further, you weren't aware of a
 22 trademark?
 23 A. When I received this letter, this is the first
 24 time I knew anything, certainly, about a trademark for

4 (Pages 10 to 13)

Van Scoy

Kurt Van Scoy

v. Van Scoy Diamond Mine of Delaware, Inc.

C.A. # 05-108 (KAJ)

July 26, 2005

Page 14

1 Van Scoy Diamond Mine.
 2 Q. So after you received this cease and desist
 3 letter, you continued to authorize and approve the
 4 advertising of the corporation?
 5 A. I seeked counsel.
 6 Q. And you continued to author and approve -- is
 7 that a yes?
 8 A. That is a yes.
 9 Q. Did you continue to author and approve what
 10 trademark to use?
 11 A. Yes.
 12 Q. And did you continue to authorize and approve the
 13 design and publication of the website hosted at
 14 vanscoydiamondmine.com?
 15 A. After I seeked counsel, we agreed to, actually to
 16 shut it down until we find out the results.
 17 Q. Of this litigation?
 18 A. Correct.
 19 Q. Did you review all of our requests for documents
 20 that you have received during this discovery period?
 21 A. Yes.
 22 Q. Have you produced everything that we have asked
 23 for?
 24 MR. QUINN: The record's clear that we

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1 produced representative samples in many cases. And we
 2 invited you to come to the premises to make the copies.
 3 MR. PETOCK: Okay. I'm going to ask Kurt to
 4 answer the questions.
 5 MR. QUINN: Well, as best he can.
 6 MR. PETOCK: Well, that doesn't mean you
 7 have the right to answer. If he can't, he can say he
 8 doesn't know or something to that effect.
 9 MR. QUINN: He can say whatever he knows.
 10 THE WITNESS: I don't know.
 11 MR. PETOCK: I'm going to have this marked
 12 as Exhibit 3, please.
 13 (Van Scoy Deposition Exhibit No. 3, Letter
 14 to Fox Rothschild Dated February 22, 2005, was marked for
 15 identification.)
 16 BY MR. PETOCK:
 17 Q. Could you tell me what you have in front of you
 18 that's been marked as Exhibit 3?
 19 A. This is, obviously, the beginning of a suit for
 20 using the name.
 21 Q. It's, actually, it's a letter addressed to your
 22 lawyer, Charlie, correct?
 23 A. Correct.
 24 Q. Do you remember if this letter was forwarded to

Page 16

1 you?
 2 A. I believe so.
 3 Q. Did Mr. Quinn inform you that you had an
 4 obligation to preserve evidence during this litigation,
 5 including electronic evidence such as your website?
 6 MR. QUINN: Objection to the extent that
 7 that asks for a question involving the attorney/client
 8 privilege.
 9 BY MR. PETOCK:
 10 Q. Did you review this letter when you got it?
 11 A. Yes.
 12 Q. Did you know you had an obligation to preserve
 13 evidence?
 14 A. Yes.
 15 Q. Could you tell me why you have not turned over
 16 any files related to your website hosted at
 17 vanscoydiamondmine.com?
 18 A. I don't understand the question.
 19 Q. We have asked for documents related to your
 20 website that was hosted at vanscoydiamondmine.com. You
 21 did have a website at vanscoydiamondmine.com at one time,
 22 correct?
 23 A. Correct.
 24 Q. And, in fact, when you received your cease and

Page 17

1 desist letter, that was where your website was hosted,
 2 correct?
 3 A. Yes.
 4 MR. QUINN: Clarify the question.
 5 MR. PETOCK: Okay.
 6 MR. QUINN: You said that was where the
 7 website was hosted?
 8 MR. PETOCK: He said yes. He said yes. I
 9 don't see why I need to clarify the question.
 10 MR. QUINN: So I can understand it.
 11 MR. F. PETOCK: It's not for you -- if the
 12 witness doesn't understand the question, he can say he
 13 doesn't understand it. It's for the witness to
 14 understand the question.
 15 MR. QUINN: Well, if I can't understand the
 16 question, how can I advise this guy?
 17 MR. PETOCK: You're not advising him.
 18 MR. QUINN: I'm certainly going to advise
 19 him after this deposition is over. If I can't understand
 20 what the question was when it was asked, I can't advise
 21 him after it's over.
 22 MR. PETOCK: You can argue about that later.
 23 MR. QUINN: And we certainly will.
 24 BY MR. PETOCK:

5 (Pages 14 to 17)

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1 Q. You said that you had a website hosted, that
2 there was a website that was hosted at
3 vanscoydiamondmine.com, that was where your website was,
4 correct?

5 A. Yes.

6 MR. QUINN: Wait a minute. At
7 vanscoydiamondmine.com does not define a geographic
8 place.

9 MR. PETOCK: It's not a geographic place.
10 It's a place on the internet.

11 MR. QUINN: That's the inference that you
12 were trying to draw from the witness a minute ago.

13 MR. PETOCK: Charlie, you know quite well
14 that that question is clear.

15 MR. QUINN: If you clarify what you mean by
16 at, then it's clear. But an ordinary listener reading
17 that transcript could conclude that the question inquires
18 as to whether the website was at the jewelry store.

19 MR. PETOCK: At vanscoydiamondmine.com is a
20 domain name.

21 MR. QUINN: That's correct.

22 BY MR. PETOCK:

23 Q. You had a domain name vanscoydiamondmine.com?

24 A. Yes.

Page 19

1 Q. And your website was hosted at
2 vanscoydiamondmine.com. Yes?

3 A. I still don't understand the question.

4 Q. You understood it before.

5 A. I know, but something -- I don't understand the
6 question.

7 Q. If someone is surfing the internet, was to type
8 in vanscoydiamondmine.com, www.vanscoydiamondmine.com,
9 your website would show up on their computer, is that
10 correct?

11 A. Correct.

12 Q. Now, we asked for you to give is a printout of
13 that website. You did not produce that.

14 A. That's something I needed to talk to counsel.

15 Q. No, I'm asking you. We asked you to produce it
16 but did you not produce it. Could you tell me why it
17 wasn't produced? Was that website destroyed?

18 MR. QUINN: How many questions are you going
19 to ask at one time?

20 THE WITNESS: I don't know.

21 MR. QUINN: Don't answer until he decides
22 which question you're to answer.

23 BY MR. PETOCK:

24 Q. Was the website that we are talking about,

Page 20

1 vanscoydiamondmine.com, any records of it destroyed?

2 A. I don't know.

3 Q. You don't know whether the records were
4 destroyed?

5 A. I don't know.

6 Q. Okay. Could you tell me the names of your
7 brothers and sisters?

8 A. Sure will. Tommy Van Scoy, Sr. And, I'm sorry,
9 Junior. Tony Van Scoy, Betsy Williams, Pam Sendrick,
10 Wayne Van Scoy, Ken Van Scoy, my deceased brother, Keith
11 Van Scoy, and myself, Kurt Van Scoy.

12 Q. Can you tell me where Tommy Van Scoy lives, Tommy
13 Van Scoy, Jr.?

14 A. In Dallas, Pennsylvania.

15 Q. He owns a jewelry store by the name of Tovon; is
16 that correct?

17 A. Correct.

18 Q. That's approximately an eighth of a mile from
19 where Wayne's store is located right now; is that
20 correct?

21 A. I believe so.

22 Q. So he's in direct competition with Wayne's store?

23 A. I would say so.

24 Q. You helped finance Tommy opening up his jewelry

Page 21

1 store; is that correct?

2 A. No.

3 Q. Did you cosign in some way on the loan?

4 A. No.

5 Q. In any way?

6 A. No.

7 Q. Did you help him, in any way, opening his jewelry
8 store?

9 A. No.

10 Q. When was the last time you have spoken to Tommy?

11 A. Yesterday actually.

12 Q. What did you guys speak about yesterday?

13 A. How's things going? What's going on? How's the
14 kids?

15 Q. Do you guys have any sort of business
16 relationship at all?

17 A. No.

18 Q. Do you supply him with anything?

19 A. Absolutely not.

20 Q. Have you -- do you send him things?

21 A. No.

22 MR. PETOCK: I would like to have this
23 marked as the next exhibit.

24 (Van Scoy Deposition Exhibit No. 4, UPS

6 (Pages 18 to 21)

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1 Invoices, was marked for identification.)

2 BY MR. PETOCK:

3 Q. You just testified that you do not send Tommy
4 Van Scoy anything. Could you tell me what you have in
5 front of you?

6 MR. QUINN: I think that's a
7 mischaracterization of his testimony.

8 MR. PETOCK: All you need to say is
9 objection. You stipulated to the fact that objecting to
10 the form of the question is the only objection you need.
11 You are coaching the witness. You are instructing the
12 deposition.

13 MR. QUINN: Well, if it's a
14 mischaracterization, that's a pretty specific objection
15 as to the form.

16 MR. PETOCK: You are coaching the witness by
17 saying that. There is no question about it. And I know
18 this. I mean, I even know this.

19 How am I mischaracterizing his testimony
20 when I asked when he said --

21 MR. QUINN: He hadn't answered the question.
22 He just restated what he said in the answer.

23 BY MR. PETOCK:

24 Q. Could you tell me what this is?

Page 23

1 MR. QUINN: You can have the answer read
2 back. You can have the question read back.

3 BY MR. PETOCK:

4 Q. Could you tell me what has been marked as
5 Plaintiff's Exhibit 4, please?

6 A. Sure. This, obviously, if you are talking about
7 business related stuff, I have to say no. I know there
8 is times he stayed down and, actually, stuff that was
9 left at my house from his kids I know we shipped back to
10 his place.

11 Q. Could you answer the question? I said: What is
12 this?

13 A. It's a shipping, billing/shipping paper.

14 Q. And what was -- is there a shipment from you to
15 Tommy or to Tovon?

16 A. No. There is a name on there. It says Lori
17 McMichael.

18 Q. Above Lori McMichael, what does it say?

19 A. It says Van Scoy Diamond Mine.

20 Q. What's the address of the Van Scoy Diamond Mine?

21 A. 1117 Churchmans Road.

22 Q. Is that your Van Scoy Diamond Mine?

23 A. Yes, it is.

24 Q. Now, this is the UPS billing summary.

Page 24

1 A. Yes.

2 Q. The UPS billing summary on the third page, if you
3 look at this third page, this one was actually something
4 was sent from Tovon and Company in DuPont, PA, and the
5 receiver was Kurt.

6 A. Okay.

7 Q. Can you tell me what that was?

8 A. I don't recall.

9 Q. On February 12th, 2005, you can't remember
10 receiving anything from Tommy?

11 A. No.

12 Q. Do you receive many things in the mail or through
13 courier services from Tommy?

14 A. Many? No.

15 Q. How often?

16 A. If I'm up there, I forget something, he'll send
17 it down to me. I get packages from my other brothers, my
18 sister.

19 Q. And yet -- so it's not that afternoon that you
20 can't remember February 12th, 2005, what he sent to you?

21 A. What was sent to me, no.

22 Q. Let's look at the FedEx on the billing receipt.
23 Do you remember this? Do you agree that this FedEx
24 billing summary shows something being sent from Van Scoy

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1 Diamond Mine in Newark, Delaware, at 1117 Churchmans Road
2 to Tommy on February 25th, 2004, at Tovon and Company?

3 A. Again, that's -- yes.

4 Q. You don't remember what you sent him; is that
5 your testimony?

6 A. There is a name there, Lori. I'm not Lori.

7 Q. Are you in charge of Lori? Is she your employee?

8 A. She's an employee.

9 MR. QUINN: That's two questions. Ask them
10 one at a time, please.

11 BY MR. PETOCK:

12 Q. Is she your employee?

13 A. Yes.

14 Q. Would you have directed her to send something to
15 Tommy or would you have directed something -- would you
16 have directed her to send something to Tommy?

17 A. Sure, yeah.

18 Q. She wouldn't have just sent it on her own?

19 A. No. If he left something there, yeah, send it,
20 just send it back.

21 Q. How often does Tommy come to your store?

22 A. He comes to my residence. Maybe half a dozen
23 times through the year roughly.

24 Q. Your testimony is that you can't remember what

7 (Pages 22 to 25)

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1 you sent to him on February 25th.
 2 A. No.
 3 MR. QUINN: That's not a question.
 4 Q. You can't remember what you sent to him on
 5 February 25th.
 6 MR. QUINN: That's still not a question.
 7 Q. Can you remember what you sent to him on February
 8 25th?
 9 A. No.
 10 Q. Do you have aspirations of one day owning the
 11 Mundy Street store?
 12 A. No.
 13 Q. Does Tommy?
 14 A. I'm not Tommy. I can't answer that question.
 15 Q. Have you ever heard Tommy say that one day I'll
 16 own the Mundy Street store?
 17 A. Not to my knowledge.
 18 Q. Are you aware of him ever saying that to anyone
 19 else?
 20 A. No. I live in Delaware.
 21 Q. Where does Tony live?
 22 A. Tony, Forty Ft., Pennsylvania.
 23 Q. What's his occupation?
 24 A. Jeweler.

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1 Q. What is -- does he have a store?
 2 A. He does.
 3 Q. Does he own the store?
 4 A. I don't know. I don't know.
 5 Q. Do you know what the name of the store is?
 6 A. I think it's Van Scoy Jewelers.
 7 Q. Do you know how long he has either owned or
 8 operated that store?
 9 A. I don't know. 25 years roughly.
 10 Q. Continuously?
 11 A. I don't know that.
 12 Q. Are you friendly with Tony?
 13 A. I speak to him.
 14 Q. How often?
 15 A. Maybe once every other day. He's my brother.
 16 Q. What have you spoken to him about concerning this
 17 case?
 18 A. Not much.
 19 Q. What specifically?
 20 A. Just what's going on? Being sued by my brother,
 21 Wayne. That's all.
 22 Q. Nothing more specific?
 23 A. No.
 24 Q. Where does Betsy live?

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1 A. It's a nursing home in Binghamton, New York.
 2 Q. She doesn't work; is that correct?
 3 A. That's correct. As far as I know.
 4 Q. And you haven't talked to her any time recently?
 5 A. No.
 6 Q. What about her husband?
 7 A. No.
 8 Q. Is Betsy sick right now?
 9 A. Yes.
 10 Q. Did she have an occupation before she got sick?
 11 A. She did.
 12 Q. What was that?
 13 A. Ran the jewelry store, Van Scoy Diamond Mine, in
 14 Binghamton, New York.
 15 Q. How did you know the name was Van Scoy Diamond
 16 Mine?
 17 A. I have been there.
 18 Q. When was the last time you were there?
 19 A. We go back about 12 years, probably 12, 13 years.
 20 Q. When do you believe she stopped running the
 21 store?
 22 A. I don't know.
 23 Q. Approximately?
 24 A. I don't know.

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1 Q. Was it 13 years ago?
 2 A. I don't know.
 3 Q. Why were you at the store 13 years ago?
 4 A. Because that was my job. I had to go to the
 5 store to work.
 6 Q. Did you work there?
 7 A. I worked for a weekend or a couple days to fill
 8 in for her. Sure.
 9 Q. Did your father own that store or --
 10 A. I'm not sure on that side of it.
 11 Q. What about Pam, where does she live?
 12 A. 190 Sahara Drive, Kingston, PA.
 13 Q. What is her occupation?
 14 A. Housewife.
 15 Q. Are you friendly with her?
 16 A. She's my sister.
 17 Q. Are you friendly with her?
 18 A. She's my sister.
 19 Q. Are you friendly with Wayne?
 20 A. No. Not right now, no.
 21 Q. Is he your brother?
 22 A. Yes, he is.
 23 Q. Are you friendly with Pam?
 24 A. She's my sister, yeah.

8 (Pages 26 to 29)

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1 Q. How often do you talk to her?
 2 A. Oh, God, once a week, if that.
 3 Q. What have you discussed with her concerning this
 4 case?
 5 A. Actually, nothing. We are just more trying to
 6 collect funds from everybody for my father's funeral and
 7 his personal stuff that was not around.
 8 Q. Has Pam ever owned a jewelry store or been in the
 9 jewelry business?
 10 A. Yeah. Her and her husband own a store in
 11 Scranton, Pennsylvania.
 12 Q. So she's not just a housewife. She also owns a
 13 store?
 14 A. Well, her husband runs the store. She stays
 15 home.
 16 Q. Do you have knowledge as to whether she owns that
 17 store?
 18 A. I believe she does have part ownership of that
 19 store, yes.
 20 Q. Who else would be an owner? Do you know?
 21 A. Her husband, Rick Sendrick.
 22 Q. Are you friendly with Rick?
 23 A. I speak to him once in a while.
 24 Q. What have you spoken with him -- have you spoken

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1 to him about this case?
 2 A. Briefly a little bit, yeah.
 3 Q. What did you guys talk about?
 4 A. Off the top -- I don't recall. Just in general.
 5 Q. When you say in general, what did you talk about?
 6 A. Still in disbelief and wonder where his stocks
 7 are and how ridiculous it really is. And that's really
 8 just in general.
 9 Q. Are you the one that thinks it's ridiculous?
 10 A. Everybody does.
 11 Q. What do you think is ridiculous?
 12 A. The whole situation we're in.
 13 Q. Which is what?
 14 A. Being sued for using a name that was given to me.
 15 Q. Is that the reason why you believe -- do you
 16 believe you have a right to use the mark Van Scoy Diamond
 17 Mine?
 18 A. Absolutely.
 19 Q. Are you using the mark Van Scoy Diamond Mine?
 20 A. Yes.
 21 Q. And the reason you believe that you have the
 22 right to use -- why do you believe, specifically, you
 23 have the right to use the mark Van Scoy Diamond Mine?
 24 A. Because my father gave me the name.

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1 Q. Did your father put anything in writing when he
 2 gave you the name?
 3 A. I have things in writing. As a contract, there
 4 was no contract. It was just he gave me the name and
 5 said, good luck, I love you and I'm proud of you.
 6 Q. And the approximate date that you said he gave
 7 you the name was in October of 1994; is that correct?
 8 A. Approximately that date, yes.
 9 Q. Could it have been later?
 10 A. No.
 11 Q. Could it have been earlier?
 12 A. Within a month I guess.
 13 Q. Now, when he supposedly gave you the name --
 14 A. Gave me the name.
 15 Q. -- you knew he was bankrupt, right?
 16 A. I knew he was going through a tough time with
 17 that. Sure. Yes.
 18 Q. One other question I want to ask you about Pam
 19 and Rick's store is what mark is that. Do you know?
 20 What mark are they using?
 21 A. Van Scoy Diamonds. Well, the phone book say Van
 22 Scoy Diamond Mine. The store says Van Scoy Diamonds.
 23 Q. Have you seen the store recently?
 24 A. I have not.

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1 Q. Do you know which one it is, which mark, whether
 2 it's Van Scoy Diamond Mine or Van Scoy Diamonds.
 3 A. No. As far as I know, it's Van Scoy Diamonds
 4 that's outside the store itself. In the phone book it
 5 says Van Scoy Diamond Mine.
 6 Q. Where does Ken live?
 7 A. He, actually, just got a new place. I'm not sure
 8 what the address is of where Ken lives right now.
 9 Q. What is his occupation?
 10 A. He just, actually, works for my sister around the
 11 house. He's just kind of doing some yard work for her.
 12 Q. Which sister?
 13 A. Pam.
 14 Q. Are you friendly with Ken?
 15 A. Yes. He's my brother.
 16 Q. How often do you talk to him?
 17 A. Just about every day.
 18 Q. What have you discussed with him concerning the
 19 case.
 20 A. Pretty much the same as everybody else, just in
 21 general, just what's going on, what's next and all that.
 22 Q. What kind of relationship did you have with your
 23 father?
 24 A. Very good actually.

9 (Pages 30 to 33)

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1 Q. Would you care to elaborate on that at all?

2 MR. QUINN: Is that a question or not?

3 MR. PETOCK: Yes, it is.

4 THE WITNESS: I don't understand it. What
5 do you mean?

6 BY MR. PETOCK:

7 Q. Would you like to tell me more about your
8 relationship with your father?

9 A. He's my father. I'm his son. I was his youngest
10 son. He taught me the business. I ran, managed the
11 stores in Connecticut, Hartford. Traveled between
12 Springfield, Hartford and New Haven since I was,
13 actually, out of school. And just did the business my
14 whole life. Used to go with him when I was about 12, 13
15 years old to the radio stations, sit there and watch him
16 for about an hour-and-a-half make ads. Had a good time
17 with my father. He was a caring guy, respectful and was
18 a man of his word. And I miss him. He's a great guy.

19 Q. You said you traveled to Hartford.

20 A. Uh-huh.

21 Q. Why did you travel the Hartford?

22 A. Hartford, Springfield, because that where the
23 stores were. He had stores up in the New England area.

24 And I managed the one in New Haven Connecticut for three

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1 years.

2 Q. Did you travel -- have you visited all of those
3 New England stores?

4 A. Just those three. I was in Providence, Rhode
5 Island, with my dad when he used to go up to see the
6 franchises.

7 Q. How often did your dad go to visit the
8 franchises?

9 A. I can't recall.

10 Q. But you would go with him sometimes?

11 A. Sometimes I would go. Sure. I had no other
12 choice.

13 Q. What would you do when you would visit these
14 franchises? By the way, when I say the word "franchise,"
15 I'm not sure whether it was a franchise or not. I just
16 mean the fact that your father licensed the mark.

17 A. It was a franchise, yes.

18 Q. What would you do when you go to these stores
19 with your father?

20 A. He would sit down talk with somebody. I'd
21 probably go grab something to eat. I was young. That's
22 one place you don't want to certainly be.

23 Q. What years did this take place that you were
24 visiting your father's franchises?

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1 A. '80, '81 to -- oh, God. I went to Connecticut in
2 '83. I would say early '80s, early '80, 1980, 1981.

3 Q. What was your position with the company at this
4 point?

5 A. Garbage man, salesman, bench guy, light bulb
6 changer, car washer, wash the windows, everything.

7 Q. Was Wayne also traveling with your father to meet
8 with franchises during this time?

9 A. I don't recall to be honest with you.

10 Q. Do you recall any of your other brothers and
11 sisters traveling to franchises?

12 A. Some of them. We all did once in a while.

13 Q. Did you go to anywhere else besides New England
14 to visit the franchises?

15 A. I did actually.

16 Q. Where else?

17 A. To the franchise down in Clear Water, Florida.

18 Q. Did your father frequently visit the franchises?

19 A. He made his rounds. Again, at that time, I was
20 young. I wanted to go play at the park instead of being
21 at work.

22 Q. What was he doing making these rounds?

23 A. Checking on the stores. My recollection, is he
24 was checking on the stores and seeing what's going on

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1 and, obviously, trying to maintain the mark.

2 Q. What kind of relationship did you have with Wayne
3 before the lawsuit?

4 A. Well, do you want me to be honest?

5 Q. Yes.

6 A. I'm going to be honest. Not good. I remember
7 him from when I was a little kid. I will never forget
8 one example. I was riding a bicycle down Hamilton Park.
9 And there was about 30 people sitting across a lot that
10 they blocked the roads off. And Hamilton Park was the
11 place to hang, if you will. And I remember I had a bike.
12 And I had the choppers. I cut the forks off of one and I
13 slid it on the other one and I'm running down. And, boy,
14 I'm running popping a wheelie. You know, I'm cool in
15 front of everybody when I was a kid. The tire came off.
16 I fell. Scraped up. Everybody comes over. Are you
17 okay? Are you okay? Are you okay? He comes over.
18 Slaps me in the head. Get on with it, quote, unquote,
19 asshole. You're cool. That's just the beginning. I'm
20 going to go on.

21 Later on just growing up, he's just been
22 very -- I'm going to leave it at that.

23 Q. He's your big brother?

24 A. Middle.

10 (Pages 34 to 37)

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1 Q. Where did you live growing up?
 2 A. 360 Joseph Drive, Kingston, Pennsylvania, 18704.
 3 Q. Over the years, where else have you lived besides
 4 that?
 5 A. New Haven, Connecticut.
 6 Q. When did you move originally from Wilkes-Barre?
 7 Or from Kingston, is that where it was?
 8 A. Kingston, yes. Kingston, when did I move? I
 9 moved to, New England, actually, to Orange, Connecticut.
 10 And that was in, I think it was 1983 to run the store in
 11 New Haven for my dad.
 12 Q. Was your dad the owner of the New Haven,
 13 Connecticut, store?
 14 A. Yes, he was.
 15 Q. Just for the record, what business was your
 16 father in?
 17 A. The diamond business.
 18 Q. Did he primarily hold himself out as a diamond
 19 dealer?
 20 A. He did, the diamond king.
 21 Q. And was that all he sold, diamonds?
 22 A. Diamonds, diamonds, jewelry.
 23 Q. Diamonds and jewelry?
 24 A. And jewelry, yeah. I'm sorry. Yeah, diamonds

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1 and jewelry.
 2 Q. Was it primarily diamonds?
 3 A. Yes.
 4 Q. How did you father get into the diamond business?
 5 A. He's, actually, he was a lieutenant in the Army,
 6 from what remember him telling me, lieutenant in the
 7 Army. And he saw another gentleman going around the
 8 barracks, actually, fixing watches. And the other guys
 9 would go out and hit the bars and all that and my father
 10 would stay with this guy and go to different soldiers and
 11 actually watch this guy fix watches. And then he started
 12 doing it himself. And he got out of the service after
 13 World War II. And he came home. He wasn't sure what he
 14 was going to do. So he said he's going to be Tommy
 15 Van Scoy, the GI jeweler. The rest is history from
 16 there.
 17 Q. He wrote a book, right?
 18 A. Yes, he did.
 19 Q. What is the name of that book?
 20 A. You Can If You Want to. It's a copyright there.
 21 Q. Have you read it?
 22 A. Bits and pieces of it I have, yeah, bits and
 23 pieces.
 24 Q. You haven't read the entire thing?

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1 A. Not in a while. I, actually, I forgot to take
 2 it on vacation. I wanted to, actually, review it again.
 3 Q. From what you remember, do you agree with the
 4 statements he makes regarding the diamond business in the
 5 book?
 6 A. I don't recall.
 7 Q. Was your father incorporated?
 8 A. To be honest, I didn't know until, actually, just
 9 seeing the statements. Again, I don't know that he was
 10 actually incorporated until I saw the filing of the
 11 papers.
 12 Q. Which papers are you referring to?
 13 A. To the lawsuit.
 14 Q. You never saw -- did you ever see any of the
 15 sales receipts or invoices or anything when you were
 16 working for the business?
 17 A. Yeah, you do.
 18 Q. Describe to me exactly what you did when you were
 19 working for the business for your father. That was
 20 during what years? I'm going to ask you that first.
 21 What years did you work for your father's business?
 22 A. I started when I was, personally, I started when
 23 I was about 10 years old. So I'm 39. Geez, 29 years
 24 ago.

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1 Q. 29 years ago?
 2 A. That's correct.
 3 Q. So early '80s, '70s, early '80s?
 4 A. Oh, yeah.
 5 Q. Mid '80s?
 6 A. Yes.
 7 Q. Up until probably early '90s?
 8 A. Yeah. I was in and out, in and out, yes.
 9 Q. And during that time, '70s to the early '90s,
 10 what did you do in your father's business? I know you
 11 said you took out trash, but tell me what else.
 12 A. That's what we did. I set earrings, set rings,
 13 sold rings. I'd run errands to the post office, anything
 14 and everything. It was a family business. And we all
 15 ran it as a family and did everything we had to do.
 16 Q. Did you ever get involved with any of the
 17 ordering or anything like that, ordering of the
 18 merchandise?
 19 A. No, not so much. Later on as I was doing more of
 20 a selling up front, I would sit down sometimes and kind
 21 of get a little more involved in what stones we needed
 22 and what stones we didn't need.
 23 Q. Any of the accounting or anything like that?
 24 A. The accounting wise, no. My brother Keith did

11 (Pages 38 to 41)

Van Scoy

v. Van Scoy Diamond Mine of Delaware, Inc.

Kurt Van Scoy

C.A. # 05-108 (KAJ)

July 26, 2005

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1 it. And I was pretty much there's papers, file them. So
 2 I was --
 3 Q. Your father owned a store in Wilkes-Barre; is
 4 that correct?
 5 A. That's correct.
 6 Q. Did he own other stores?
 7 A. Yes, he did.
 8 Q. Where else?
 9 A. Springfield; Hartford, Connecticut; New Haven,
 10 Connecticut; at the time, Binghamton, New York; Scranton;
 11 Wilkes-Barre and Delaware.
 12 Q. Could you repeat them, please?
 13 A. Wilkes-Barre; Scranton; Delaware; Binghamton, New
 14 York; Springfield, Massachusetts; Hartford, Connecticut
 15 and New Haven, Connecticut.
 16 Q. Do you remember what years he owned those stores?
 17 A. I don't. This is early '80s.
 18 Q. What mark did your father operate those stores
 19 under?
 20 A. The name was Van Scoy Diamond Mine.
 21 Q. How did he come up with the name Van Scoy Diamond
 22 Mine?
 23 A. Very creative.
 24 Q. Do you think that's a creative name?

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1 A. Well, I mean, he's a creative guy. That's
 2 what -- he's a creative guy. It's just creative. I
 3 don't personally know.
 4 Q. Do you know when he started to use Van Scoy
 5 Diamond Mine?
 6 A. No, I don't.
 7 Q. Did your father advertise the mark Van Scoy
 8 Diamond Mine?
 9 A. He advertised Van Scoy Diamond Mine, yes.
 10 Q. How did he advertise?
 11 A. I don't understand the question.
 12 Q. Radio, television?
 13 A. Radio, television, newspaper, yes.
 14 Q. Do you remember anything about his
 15 advertisements?
 16 A. Yes.
 17 Q. What do you remember about his advertisements?
 18 A. He's very stern in his advertising. How to take
 19 his jewelry off. I remember I used to go with him to the
 20 radio station when I was young. And he had to his rings
 21 off and everything because he was actually, they were
 22 picking up on the mike. And he was very -- just as if
 23 he's talking to 10,000 people, very distinct advertising.
 24 Q. Did he advertise in all of those areas where he

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1 owned stores?
 2 A. Yes. At the time, yes.
 3 Q. Were they popular ads, to your knowledge, in the
 4 areas in which he owned stores?
 5 A. He advertised quite a bit. Sure.
 6 Q. Did he advertise in the Newark, Delaware, area?
 7 A. Yes.
 8 Q. Do you remember anything specifically about those
 9 ads?
 10 A. Just ads are ads.
 11 Q. Do you know how much he advertised in Newark?
 12 A. No, no idea.
 13 Q. You said your father had what you described as
 14 franchises.
 15 A. Yes.
 16 Q. Could you tell me what your understanding of the
 17 word "franchise" is?
 18 A. Yeah. Actually, they were, purchased the name or
 19 using the name Van Scoy Diamond Mine and actually was all
 20 done on a handshake with my father. And he, actually,
 21 put them up in an area and start them in the business and
 22 my father would do the advertising for them.
 23 Q. So they would -- do you know how much these
 24 people paid to use the mark?

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1 A. That's personal information. I don't know.
 2 Q. Did they pay money to use the mark?
 3 A. As far as I know.
 4 Q. Did all of the franchisees or licensees operate
 5 under the mark Van Scoy Diamond Mine?
 6 A. That I don't know.
 7 Q. But what they were paying for was the right to
 8 use the mark Van Scoy Diamond Mine; is that correct?
 9 A. I don't know. I'm not my father. I don't know.
 10 Q. What else would they have been paying for?
 11 MR. QUINN: Calls for speculation on the
 12 part of the witness.
 13 MR. PETOCK: There is no problem with that.
 14 MR. F. PETOCK: Objection. You are leading
 15 the witness.
 16 MR. QUINN: Again, I state, restate the
 17 objection.
 18 MR. PETOCK: You are leading the witness,
 19 Charlie, when you say that. You are coaching him.
 20 MR. QUINN: You started the deposition by
 21 saying you were going to ask him for the facts that he
 22 knew about this case. Now you are asking him to
 23 speculate. That is a shift of gears.
 24 BY MR. PETOCK:

12 (Pages 42 to 45)